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having a **voice...**
hope and respect

09/10
ANNUAL REPORT

My heart is full of gratitude to you
for being patient and helping me.

PATIENT

* In this year's annual report, there are several comments from clients who have used the services of the Alberta Mental Health Patient Advocate, government officials who work in the area, mental health agencies and health care providers working in Alberta's 16 designated mental health facilities.

Table of Contents

Letter to the Minister of Health and Wellness	3
Advancing the Mental Health Agenda: Concerns and Complaints, Advocacy, Patient Rights & Education	4
Advocate's Message	6
Complaint Resolution Process	10
A Day in the Life of a Patient Rights Advocate	12
Performance Activities	16
Summary of Activities	18
Trends and Emerging Issues	22
Organizational Structure	27
Financial Summary	27
Facilities Designated for Formal (Involuntary) Patients	28
Contact Information	28



Thank you for providing information
on changes to the *Mental Health Act*.
It is good to see changes to improve the
protection of patients' rights and that
ensure they are receiving adequate care...

GOVERNMENT OFFICIAL

Letter to the Minister of Health and Wellness

The Honourable Gene Zwozdesky
Minister of Health and Wellness
Legislature Office
#208 Legislature Building
10800 97 Avenue
Edmonton, AB
Canada T5K 2B6

Dear Minister Zwozdesky:

It is my responsibility and honour to present the Mental Health Patient Advocate Annual Report for 2009-10 and share with you the work that my office does to support patients to understand and exercise their rights under the *Mental Health Act* and to investigate complaints from or related to patients who are under one or two admission or renewal certificates or a community treatment order.

In preparing this report, I worked closely with Sandra Harrison who occupied the position of Mental Health Patient Advocate during the 2009-10 fiscal year.

This report is submitted in accordance with the provisions of Section S 47(1) of the *Mental Health Act* for your presentation to the Legislative Assembly.

Respectfully submitted,

(Signed by Fay Orr)

Mental Health Patient Advocate

Advancing the Mental Health Agenda: Concerns and Complaints, Advocacy, Patient Rights & Education

Vision

Albertans with mental illness are hopeful, respected and supported in their journey of recovery.

Mission

The Mental Health Patient Advocate and staff promote and protect the rights of patients in accordance with the *Mental Health Act* and Patient Advocate Regulation, encourage and support patients through their journey of recovery, and serve as a resource to many regarding the application of this legislation.

Values

The following values are the foundation and measure of all actions and directions taken by the Mental Health Patient Advocate Office (MHPAO) with patients under our jurisdiction, those acting on their behalf, treatment team members, policy makers, and others who want and need to know about patient rights under the *Mental Health Act* and other relevant legislation.

- Rights – Every patient and those acting on their behalf have the right to receive objective information to assist them in understanding their situation and options available.
- Advocacy – The Mental Health Patient Advocate and staff have a unique legislated and ethical responsibility to support patients, and those acting on their behalf in understanding and exercising their rights under the *Mental Health Act* and investigating their concerns.
- Recovery – Every patient being assessed or in the recovery process has the right to be heard, respected and encouraged by hope for a better future.
- Involvement in Decision Making – Every patient has the right to be involved in decision making that impacts the management of their illness and their life, and participate in their self care, to the extent they are able.
- Knowledge Exchange – The open exchange of knowledge through education, information, research and evaluation contributes to meaningful dialogue and shared actions to promote and protect patient rights and enhance treatment and care.



Thank you for listening to me
during this difficult time away
from my loved ones.

PATIENT

You keep calling back.
That is an angel's move.

PATIENT



Advocate's Message: A Year of Achievements and "Firsts"

Alberta continued to be a leader in the legislated rights of patients with a mental illness during the past year. The Alberta Mental Health Patient Advocate Office (MHPAO) was established in 1990 with the passing of a provincial *Mental Health Act*. This statute and Patient Advocate Regulation enshrined and standardized an approach for investigating complaints and ensuring the protection of rights of formal mental health patients involuntarily detained in designated mental health facilities under two admission or renewal certificates.

In 2009 – 2010 the amended *Mental Health Act* (2007) (MHA) came into effect and with it many changes occurred. The changes included:

- Introduction of *harm* to the certification criteria for mental health patients involuntarily detained
- Mandatory provision of hospital discharge summary, including any recommendations for treatment, to the patient's family physician if known
- Expansion of patient rights and the mandate of the Mental Health Patient Advocate and the Review Panel
- Introduction of community treatment orders

The Patient Advocate Regulation was also amended. The changes expand the MHPAO's jurisdiction to include patients under *one* or two admission or renewal certificates and Community Treatment Orders (CTOs).

The introduction of CTOs in January 2010 increased patients' treatment options by promoting greater continuity of care to support and treat patients in the community. As of March 2010, psychiatrists in Edmonton, Calgary and central Alberta had issued nine CTOs.

Arms length from Government and not affiliated with AHS, the MHPAO did a critical analysis of work processes to put the amended statute and regulation into place. Other related activities included:

- Participation on the Provincial *Mental Health Act* and Community Treatment Order Steering Committee co-chaired by Alberta Health and Wellness and Alberta Health Services
- Review and input into regulation amendments
- Expanded resources in the MHPAO provincial Call Centre from one to two front line Patient Rights Advocates to respond to increased service demands
- Training to ensure all team members were knowledgeable about the legislated changes and fully prepared to fulfill the expanded patient rights mandate

- Revision of the mhp.ab.ca website to provide information about the changes to clients, patients, families, consumer organizations, mental health service providers, and other jurisdictions
- Distribution to clinics, doctor's offices, hospitals, agencies and organizations of about 15,000 revised MHPAO brochures and posters to inform patients and family members, doctors and other service providers about expanded patient rights and the role of the Mental Health Patient Advocate to investigate patient concerns
- Participation with Alberta Health Services at staff and public education events
- Revision of C.A.R.E.S., the MHPAO confidential information management system which is only accessible by the Advocate's staff
- Engaged and funded the Canadian Mental Health Association Calgary Region to develop *The Alberta Mental Health Act - A Guide for Mental Health Service Users and Caregivers, 2nd Edition*

In November 2009 the MHPA initiated and co-hosted a one-day forum *Giving Voice: Advocacy and Mental Health* with the Health Law Institute and the Faculty of Law, University of Alberta. The forum highlighted changes to Alberta's mental health legislation, patient rights and other initiatives in the justice system, courts, Public Guardian's office, Legal Aid Alberta, and Alberta Health Services.

A "sold-out" event, the Forum attracted more than 200 people. Evaluation results revealed high participant satisfaction with a request to make the forum an annual event organized by the MHPAO as part of its outreach work into the community.

In an effort to further enhance its supports to clients, the MHPAO engaged a consultant to conduct an evaluation of the delivery of its services. Gathering input from clients detained for psychiatric assessment and treatment can be a

challenge and requires a high degree of sensitivity. This first-ever evaluation received input from hospital-based service providers, mental health leaders and managers, consumers in the community, community agency representatives, and officials in mental health. Respondents indicated:

- The MHPAO provides an objective and supportive voice for patients
- Patients have the opportunity to express their concerns
- Patient Advocates take patient issues seriously and work to resolve any concerns
- The work of the MHPAO supports patients to exercise their rights and helps reduce anxieties for patients who feel isolated
- Information and services provided by the MHPAO empower patients and helps them better understand the different processes in the mental health system
- The MHPAO involves mental health treatment team members in the complaint resolution process and provides a respectful environment for them to express their perspective

In 2009/10 the Provincial MHPAO Call Centre managed 7602 calls, opened 1500 files and conducted more than 300 patient visits at 16 designated facilities across the province. In response to increased requests by patients for more face to face contact with advocates, the MHPAO staff visited all of the 16 designated hospitals at least once, and 14 of them twice.

The MHPAO completed 19 information presentations, set up four displays at meetings or conferences, and networked with many community agencies and Alberta Health Services patient concerns consultants. Advocates also participated on committees or as consultants on a range of mental health issues.

In July 2009, the Minister of Children and Youth Services appointed the Mental Health Patient Advocate to a review panel to look at Alberta's child intervention system. The purpose of the review was to identify existing strengths, identify leading practices, and offer recommendations on how the system may be strengthened to support the province's most vulnerable and at-risk children, youth and families. The other panel members included specialists in the fields of child intervention, justice and services to Aboriginal people, as well as Cal Dallas, Member of the Legislative Assembly for Red Deer-South. A report and recommendations are planned for spring 2010.

In October 2009 the advocate was appointed to a team of stakeholders in the mental health area to work with Alberta Health Services on plans to expand community care options for Alberta Hospital Edmonton patients, in addition to acute care and ongoing forensic care at the hospital.

The Committee made recommendations to Alberta Health Services to guide future implementation. As a result of those recommendations:

- A new campus for geriatric mental health patients is planned
- Further analysis of Alberta Hospital Edmonton's future is being undertaken
- Government has committed to seek and listen to the voices of patients, families and key stakeholders in planning mental health initiatives

In past Annual Reports, the Advocate promoted the concept of a charter of patient rights. In September 2009, the Minister of Health and Wellness established the Minister's Advisory Committee on Health.

In its January 2010 report, the committee recommended that a new law, the *Alberta Health Act*, be established around a set of core principles. The committee also recommended a patient charter, the affirmation of the *Canada Health Act* principles, consolidation of core

legislation, stronger support for evidence-based decision making and ongoing citizen engagement. The Minister accepted all four recommendations on behalf of the Government in January 2010 and pledged to conduct extensive consultation in moving forward.

I want to commend and thank my predecessor, Sandra Harrison, for her hard work and the tremendous leadership she provided to the MHPAO during this reporting year and throughout her tenure.

(signed by Fay Orr)

You have given me the courage
to ask the questions I needed
to ask today.

PATIENT

Other MHPAO activities in 2009/10

- Acceptance from Alberta's Information and Privacy Commissioner of a Privacy Impact Assessment on the unique "made in Alberta" MHPA Information management system C.A.R.E.S.
- Submission of articles for various health related and legal journals.
- Participation and advocacy in Legal Aid Alberta's review of their services. The Advocate's work resulted in affirmation of legal services being provided at no cost to all patients, including those on CTOs, who appear before the Review Panel.
- Advocacy with Alberta Health Services and Alberta Health and Wellness to improve legal counsel's access to hospital records for patients appearing at Review Panels.
- Advocacy with the Canadian Mental Health Association Calgary Region that resulted in a policy review by police services regarding police record checks for those with mental health concerns.
- Advocacy regarding the provision of snacks and personal hygiene items for patients at Alberta Hospital Edmonton.
- Strengthening of relationships with not-for-profit mental health community advocates and with Alberta Health Services addiction and mental health leaders and service providers.
- Participation in the Mental Health Commission of Canada's focus groups and consultations to develop a Canadian mental health framework.



The past year has been one of major achievements with many breakthroughs and "firsts" for the rights of patients with mental illness in our province and nationally.

It has been an honour to serve as the Mental Health Patient Advocate. I am extremely proud that Alberta is viewed as a leader in promoting and protecting patient rights. The part my team played in resolving

urgent patient care and safety issues and influencing the quality of Alberta's future mental health care inspired us every day.

As part of the Alberta community of advocates I feel hopeful that a future where the voices of patients with mental illness are heard and respected is no longer just a dream.

(Signed by Sandra Harrison)

Mental Health Patient Advocate
2006-2010

Complaint Resolution Process

Under the *Mental Health Act*, patients who are or have been under one or two admission certificates or renewal certificates, or subject to a Community Treatment Order (CTO) or those acting on their behalf, may contact the Mental Health Patient Advocate if they have a concern with the rights, detention, treatment and/or care of a patient.

All inquiries made by the Mental Health Patient Advocate into complaints and concerns are called investigations, which may be informal or formal (as outlined in legislation).

Most concerns that are brought to the attention of the Mental Health Patient Advocate can be resolved through **informal investigation and conciliation**. These concerns range from detention, treatment, care and/or control of

a patient against their will, to lack of privileges, privacy and access to information. Many of these concerns are resolved through discussion between the patient, an advocate and, often, members of the treatment team.

Only the Mental Health Patient Advocate may authorize a formal investigation. **Formal investigations** are investigations that cannot be easily resolved over the telephone. They could include complaints about alleged abuse or events that happened many years ago when the person was a patient. All information about an investigation is documented in the Mental Health Patient Advocate data system and remains confidential as required by law.

Complaint Resolution

A complaint or concern is made with the Mental Health Patient Advocate.

A patient advocate determines if the person is or has been under one or two admission or renewal certificates or a community treatment order under the *Mental Health Act*.

A patient advocate and the complainant discuss the concerns and develop an action plan.

A patient advocate conducts an investigation.

If the concern does not fall under the Patient Advocate's mandate, the person will be referred.

Informal Investigation

If the complaint was made by someone acting on the patient's behalf, a patient advocate contacts the patient to discuss.

➤ An advocate contacts the staff, psychiatrist, physician, or whomever is responsible for the patient's treatment and care and/or who is aware of the situation.

➤ If an advocate finds evidence to support the complaint, recommendations are forwarded to the appropriate people.

➤ An advocate follows up on the recommendations to determine what action was taken.

➤ If the person who filed the complaint and an advocate are satisfied with the resolution, the file is closed. If the person is not satisfied, an advocate may take the matter to a higher level at the hospital or the community health area and/or consults with the Mental Health Patient Advocate. It may result in a formal investigation.

Formal Investigation

The Mental Health Patient Advocate approves the formal investigation and assigns an advocate to investigate the complaint.

➤ The Mental Health Patient Advocate notifies various parties, such as the patient, hospital board, health authority, and/or an issuing psychiatrist about the complaint and the investigation as required by law.

➤ A copy of pertinent sections of the patient's chart is obtained in addition to policies, procedures and other documents related to the complaint.

➤ An advocate interviews the complainant and other involved parties in person, including the patient.

➤ An advocate writes an investigation report which includes findings and recommendations.

➤ An advocate forwards the investigation report to the Mental Health Patient Advocate for review and approval.

➤ The investigation report is sent to the hospital board, health authority, and/or an issuing psychiatrist. The Mental Health Patient Advocate requests a written response to the recommendations and actions taken.

➤ A letter is sent to the patient to inform him or her of the disposition of the complaint.

➤ The Mental Health Patient Advocate receives a response to the recommendations from the hospital board, health authority, and/or an issuing psychiatrist. If the Mental Health Patient Advocate is of the opinion appropriate action was taken, the file is closed. If not, the Mental Health Patient Advocate is required by law to send a copy of the investigation report and the response, if any, to the Minister of Alberta Health and Wellness.

We truly valued your observations and constructive analysis. Your ideas and approaches were insightful and a great help to our project team.

MENTAL HEALTH AGENCY

A Day in the Life of a Patient Rights Advocate

Complaint

Seventeen-year-old Billy's brother brings him to emergency with reports of a suspected drug overdose. After an emergency room physician examines him, Billy informs the doctor he wants to go home. His doctor explains he cannot leave the hospital since he issued a Form 1 Admission Certificate under the *Mental Health Act*. This means Billy is detained against his will for up to 24 hours.

Billy insists he was "just having fun" and the hospital has no right to detain him. He sees a poster on the wall for the Mental Health Patient Advocate Office (MHPAO) and calls the office. Billy says he is being held against his will "just for getting high" and that he was "not trying to harm himself." Billy says he is being detained under one admission certificate and asks the Advocate if she could "get me out".

The Advocate tells Billy she is legislated under the *Mental Health Act* to assist patients subject to one or two admission or renewal certificates or a community treatment order and those acting on their behalf. Advocates help patients understand and exercise their rights as well as investigate concerns and complaints regarding a patient's detention, treatment, care and rights under the Act. The Advocate subsequently explains confidentiality and how Billy's health information is protected under the *Health Information Act*.

The Advocate calls emergency and speaks with a psychiatric liaison staff member. The staff member confirms Billy is subject to one admission certificate. The Advocate is transferred back to Billy.

The Advocate tells Billy that she confirmed he is under a single admission certificate. The Advocate explains that a single admission certificate provides the hospital with the authority to detain him for up to 24 hours, as well as to

care for, observe, examine, assess, treat, and control him during that time.

Billy asks the Advocate to explain the three criteria. The Advocate informs him that a doctor may issue a Form 1 admission certificate if he or she believes the person is:

- 1. suffering from a mental disorder
- 2. likely to cause harm to themselves or others or to suffer substantial mental or physical deterioration or serious physical impairment, and
- 3. unsuitable for admission to a facility other than as a formal patient

The Advocate subsequently explains that a doctor will assess him to decide if he will admit Billy as a formal patient under two admission certificates, ask him to stay as a voluntary patient, or alternately release Billy from hospital. The Advocate encourages Billy to discuss his concerns and feelings regarding his detainment with his physician and nurse.

Billy replies he's not going to discuss "anything with those guys" and angrily asserts that he just wants to go home. The Advocate tells Billy that she appreciates his frustration, however, she is attempting to help him understand his rights and to support him through this difficult time.

Billy then asks the Advocate what is meant by "control" under the Act. The Advocate explains that the authority to control a person under the Act is *authority to control the person without the person's consent to the extent necessary to prevent serious bodily harm to the person or to another person by the minimal use of such force, mechanical means or medication as is reasonable, having regard to the physical and mental condition of the person*. The Advocate stresses that control is different from treatment. Billy replies that he plans to be "on my best behaviour because I don't want to be restrained."

Billy agrees with the Advocate that it may be useful for him to explore treatment options, if needed, with his doctor or nurse. Billy thanks the Advocate for the information. He indicates that he will speak with a nurse about his concerns regarding detention.

Billy calls the Advocate later. He tells her that he spoke with a nurse and realizes his doctor was just trying to help him. The Advocate comments that she is pleased to hear of Billy's attempts to find out more about his situation. She encourages him to call at any time should he have questions or concerns about being detained in hospital under the Act.

Billy calls the Advocate six weeks later. He reports he was issued a second admission certificate but that his doctor cancelled the certificates after two weeks and discharged him from hospital. He mentions that his physician notified his family doctor in the community of the discharge and sent him the discharge summary and treatment recommendations. The Advocate tells Billy that the notification is a requirement under the Act and encourages him to follow up with his family physician. She thanks him for letting her know how he is doing and wishes him well.

Advocacy

An Advocate from the Mental Health Patient Advocate Office (MHPAO) goes to a facility as part of a routine visit with patients. As prearranged he meets with Jon, a unit staff member, who provides him with a list of patients that are under the MHPAO's jurisdiction including information on their legal status.

The Advocate subsequently meets with Elise, a patient who has been in hospital for over three weeks and was recently issued two Form 1 admission certificates. Elise is considered competent to make treatment decisions. The Advocate explains his mandate under the *Mental Health Act* including confidentiality of information. He tells her that this is a routine visit to let patients know about the

services of the MHPAO and to answer any questions patients may have about the Act.

Elise tells the Advocate that most staff on the unit have been very caring. She adds that her nurse gave her a copy of her certificates and informed her of her rights under the Act. Elise states that one nurse, however, pressures her to take medication. While she does not mind some of the medication, there is one pill that makes her feel very tired and causes her to slur her speech.

The Advocate informs Elise that she has the right to refuse medication because in her doctor's opinion she is competent to make treatment decisions. If the doctor believed she was incompetent, he or she would have completed a Form 11 Certificate of Incompetence to Make Treatment Decisions. When this occurs, consent for treatment is provided by a substitute decision maker.

The Advocate stresses that Elise's doctor would want to hear of any medication concerns. The doctor may or may not adjust the medication and could provide her with information on the medication to let her know when she may notice a difference in how she feels. Elise agrees to the Advocate's suggestion that she write down her concerns and questions about her medication. She will reference it when she meets with her doctor later this morning.

The Advocate sees Elise later in the day and Elise tells him that she reviewed her concerns and questions with her physician. Her doctor was pleased she expressed her feelings about the medication. He told her he wants Elise to stabilize before they look at discharge planning. As her doctor answered her questions and addressed her concerns, Elise tells the Advocate she is willing to try the medication for another two weeks.

Elise thanks the Advocate for encouraging her to talk with her physician.

Jaden calls the Mental Health Patient Advocate Office (MHPAO) to report he was issued a community treatment order (CTO) two weeks ago. His mother is the legal guardian and consented to the CTO. Jaden believes he should not be under a CTO and wonders how it will help him. He confirms he received a written statement of the reason and authority of the CTO, a copy of the CTO, information on the Review Panel, and his right to apply to the Review Panel for cancellation of the CTO.

The Advocate informs Jaden of the mandate of the MHPAO and of its confidentiality policy. She lets Jaden know that she will contact the CTO Coordinator to confirm his legal status to ensure he falls under the Patient Advocate's jurisdiction. This will also ensure she provides him with correct information. Jaden provides his home telephone number.

After confirming jurisdiction, the Advocate calls Jaden and lets him know she confirmed his legal status. She explains to him that the purpose of a CTO is to provide patients with enough support and supervision that they can follow the treatment and care plan, which is specific to the individual's needs and includes certain requirements. Jaden notes that he has to take his medication and must attend regular appointments with his doctor, mental health therapist, and addictions counsellor. He also mentions he must reside in his mother's home.

Jaden wants the CTO cancelled. He disagrees with having to see a mental health therapist as well as an addictions counsellor and does not believe he needs to see both. The Advocate tells Jaden that he may apply to the Review Panel for cancellation of the CTO and that the Panel may or may not cancel it. She also tells him he has the right to request amendments or changes to his CTO and that a CTO may be amended by a psychiatrist. She suggests that he let his physician and his mother (legal guardian) know of his wishes and it would be helpful if he could explain why he feels he does not need help from both the therapist and

the addictions counsellor. Jaden comments that he may speak with his mother first.

Jaden tells the Advocate that someone told him there are automatic reviews for patients under a CTO. The Advocate replies that should his CTO be renewed, there is an automatic review by the Review Panel at the time of the first renewal of the CTO and every second renewal after that until the CTO expires or is cancelled or if there has been an application for review within the month preceding any of those renewals. As well, she lets Jaden know that legal counsel may assist him at the hearing and that both he and his lawyer may question any person who gives evidence at the hearing. Should the Review Panel refuse to cancel the CTO, patients have the right to appeal any decision of the Review Panel to the Court of Queen's Bench.

Jaden acknowledges that he would be fine with being on a CTO if he only has to see his mental health therapist. He adds he was told that if he does not comply with the requirements in his treatment and care plan that he may be apprehended and taken to a hospital.

The Advocate tells him he is correct and explains that before this occurs, there must be reasonable efforts made to inform him of the following:

- He did not comply with the CTO treatment and care requirements
- He must comply with the CTO
- There are consequences for non-compliance (an order for apprehension and examination may be issued if he continues to fail to comply with the CTO)
- The possible consequences of the examination
- The right to receive reasonable assistance from his psychiatrist or supervising physician to comply with his CTO

Jaden is happy he is living in the community and does not wish to return to hospital. He has had the same doctor for years and knows he is trying to help him. Jaden agrees to call the Advocate if he needs assistance in the future.

Evaluation

An Advocate at the Mental Health Patient Advocate Office (MHPAO) receives a call from Kelsey. She identifies herself as a patient on a medical unit at a hospital. Kelsey is upset that staff told her she is not allowed to discharge herself against medical advice.

Kelsey has been in hospital for one week and feels that she does not need additional treatment for her medical condition.

The Advocate asks Kelsey if staff or her doctor indicated she is being detained under the *Mental Health Act*, or if she received documents entitled Form 1 Admission Certificate. Kelsey replies that she did not receive any documents but adds a second doctor met with her several days ago and asked her questions about her depression.

The Advocate explains the mandate of the Mental Health Patient Advocate and the office's confidentiality policy. She tells Kelsey that she will talk with the unit staff to determine Kelsey's legal status and if she is being detained under the Act.

The Advocate calls the medical unit and speaks with Kelsey's nurse, Sherri. The Advocate explains the mandate of the Patient Advocate. Sherri is unfamiliar with the *Mental Health Act*, so the Advocate tells her that patients may be detained against their will under the Act if two physicians have examined the patient independently and each physician completes a Form 1 Admission Certificate. If two admission certificates are issued, the patient has formal status under the Act.

The Advocate stresses that there is a legislated requirement that a formal patient is notified of their legal status, provided with copies of the certificates, and informed of their legal right to request cancellation of the certificates by forwarding a Form 12 application to the Review Panel.

Sherri tells the Advocate that Kelsey has a serious medical condition that requires treatment. She is unsure if Kelsey

is being detained under the *Mental Health Act*. At the Advocate's request, Sherri reviews the patient chart and confirms Kelsey is subject to two admission certificates. Sherri notes the patient's copy of the certificates is on the chart. She also tells the Advocate that there is no notation in the chart that Kelsey was notified she had formal status or that she received rights information.

Sherri assures the Advocate that she will provide Kelsey with a copy of her certificates and immediately inform her of her rights. The Advocate thanks Sherri for the prompt action and indicates she will call Kelsey in an hour to ensure she understands the authority of the Act to detain her against her will and her legislated rights. She tells Sherri that she will alert the unit manager of their conversation to ensure staff and physicians on the medical unit know the requirements of the *Mental Health Act*.

The Advocate contacts Steve, the unit manager, and explains what occurred. Steve replies he is aware there were changes to the *Mental Health Act* and that the number of formal patients on medical units is increasing. He adds that some staff may not be aware of the Act while others are trying their best to comply with the legislation.

The Advocate accepts Steve's request to present an overview of the Act to treatment team members to ensure the rights of patients under the Act are protected. The objectives of the presentation are to enhance participants' understanding and application of the MHA, knowledge of where to go to get information on the Act, and awareness of the legislated mandate and services offered by the Mental Health Patient Advocate Office. Steve will remind treatment team members at shift change that they are required to comply with the Act. If they have any questions, they may contact him, the MHPAO or the psychiatric unit at the hospital.

The Advocate calls Kelsey. Kelsey confirms that Sherri explained what formal status means, gave her a copy of her certificates and informed her of her rights.

Performance Activities

Core functions of the Alberta Mental Health Patient Advocate Office are:

- C – Concerns and complaints
- A – Advocacy
- R – Rights
- E – Education

Concerns and complaints – Complaint investigation may address a number of issues including the application of the *Mental Health Act*, patient rights, administrative fairness, alleged abuse, a failure or refusal to provide services to the patient, terms and conditions under which services are provided to the patient, and professional practice and/or unprofessional conduct. Complaints and/or concerns may be clinical or non-clinical in nature.

Advocacy – Advocacy refers to those activities where individuals are coached and supported to act on their own behalf, or where assistance is requested to ensure the voice of patients is heard and considered by the treatment team. Patients and their families are supported in this process through the provision of information and rights advice.

Rights – Rights advice refers to the process by which patients who fall under the jurisdiction of the *Mental Health Act*, or those acting on their behalf, are informed of their rights. In Alberta, rights advice is provided to mental health patients by hospital staff or physicians and/or independently by the Mental Health Patient Advocate and staff.

Education – Education includes activities such as the provision of information about and the application in practice of the *Mental Health Act*, patient rights, and the complementary role of patient advocacy in the provision of mental health services. Education is provided to a broad range of stakeholders including service providers, patients and their families, community organizations, professional colleges, lawyers, government ministries, students, the public, and many others.

Thank you for the
prompt service.

MENTAL HEALTH CARE PROVIDER



Thank you for your kindness
and not forgetting about me.

PATIENT

Summary of Activities

A. Overview

Four core activities (concerns and complaints, advocacy, rights information and education) of the Mental Health Patient Advocate Office for the 2009/2010 fiscal year are summarized in Figure I. The data reflects the combination of both patient case files and resource service activities undertaken.

Patient Case Work refers to files opened for former or current formal patients (see Section B).

Resource services are provided to all others (see Section D).

Figure I – Patient Case Files and Resource Services:

PATIENT CASE FILES	2009/10	2009/10
Issues/Requests	3160	5097
Contacts	4260	5172
New Files	516	796

RESOURCE SERVICES

	2009/10	2009/10
Issues/Requests	892	1419
Contacts	1531	2430
New Files	433	704

OVERALL CORE ACTIVITIES

	2009/10	2009/10
Total Issues/Requests	4052	6516
Total New Files	949	1500
Total Contacts	5791	7602

A total of 7602 personal, telephone, and written contact with Alberta citizens and the occasional caller from outside Alberta were handled by the Mental Health Patient Advocate Office during the 2009/2010 fiscal year. Issues/requests are broken down by category in Figure II. These categories are approximate since most cases are complex and presenting issues can be classified in more than one way, depending upon the area of focus.

B. Patient Case Work

According to the *Mental Health Act*, formal patients may be accommodated only in 16 designated hospitals across the province. While patients may live anywhere in Alberta, the majority of calls received are from patients hospitalized in the three communities with the largest mental health hospitals – Edmonton, Calgary and Ponoka.

Figure II – Patient Case Files: Total Issues/Requests by Type

	2009/10	2009/10
Rights	2553	4154
Clinical	291	268
Administrative	224	539
Legal	73	82
Social/Financial	19	54

Consistent with previous years, there was a wide range of issues/requests. Most issues/requests were legal in nature and reflected an ongoing emphasis on legislated rights and the involuntary apprehension, detention and treatment provisions of the *Mental Health Act*. Other issues included:

- Attitude/courtesy of staff toward patient values, preferences and expressed needs
- Use of restraint and seclusion
- Allegations of abuse
- Patient/visitor safety
- Medication
- Dietary
- Social/Financial usually related to loss of property
- Administrative policy and accommodation concerns included comfort/cleanliness, privacy and transfer requests

Advocates helped clients to:

- Resolve complaints
- Understand and exercise their legislated rights (For example, authority of admission/renewal certificates, application to the Review Panel/Court of Queen's Bench, right to retain a lawyer)
- Self advocate and ensure the client's voice is heard and considered when clients are unable to advocate for themselves
- Understand the roles and responsibilities of the various health care providers and how to navigate through the system

Investigations Conducted

A total of 470 investigations were initiated. All investigations were conducted informally with the exception of one case file where a formal investigation was conducted.

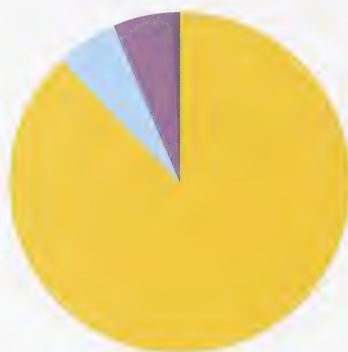
Figure III – Legal Status of Contacts

		2009/10
Current Formal Patients	489	756
Previous Formal Patients	12	3
Current Formal/Other Involuntary	8	27
Current Single Form 1	NA	8
Former Single Form 1	NA	1
Current Informal Patients	3	0
Other Involuntary Patients	1	0
CTO	NA	1
Other (Status Unknown/Not Disclosed)	3	0
TOTAL:	516	796

Figure III illustrates the legal status of patient calls received and the case files opened as a result. The term "other involuntary" refers to patients under compulsory detention in designated mental health facilities by way of Disposition Orders from the courts and the Forensic Alberta Review Board.

In 2009/10, almost 99 per cent of the case file requests for assistance involved current or previous formal patients.

Figure IV – Resolution of Concern/Complaint



- Concern resolved by MHPA – 413 (87.9%)
- Referral made – 27 (5.7%)
- Investigation initiated, but later discontinued by Advocate or at complainant's request – 27 (5.7%)
- Investigation in progress – 3 (.64%)

Most individual patient concerns were resolved within five days of the caller's initial contact with the Mental Health Patient Advocate Office.

C. Patient Profile

Patients who accessed the MHPAO services in 2009/2010 were typically men and women (about 10 per cent more men) between the ages of 18 – 64 years. There were also 11 adolescents under 18 years of age and 144 seniors over 64 years.

Figure V – Patient Profile by Age:

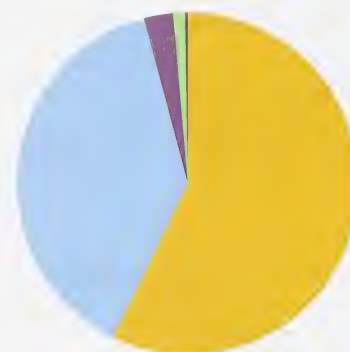
	2008/09	2009/10
Ages 18-64	437	641
65 plus	73	144
Under 18	6	11
TOTAL:	516	796

Figure VI – Patient Profile by Gender

	2008/09	2009/10
Male	262	440
Female	254	356
TOTAL:	516	796

D. Resource Services

**Figure VII – Resource Services:
Total Issues/Requests by Core Function**



- Education Services – 562 (57.3%)
- Advocacy Services – 380 (38.7%)
- Rights Information Provided – 26 (2.7%)
- Concern/Complaint Requiring Referral – 11 (1.1%)
- Compliment Given to MHPAO – 2 (.2%)

Figure VII describes the breakdown of Resource Services provided to individuals and groups who are not patients in hospital. Some Advocacy Services include supports for fostering self advocacy, advocacy on behalf of an individual and services to help navigate the mental health system. Examples of rights information provided include information on amendments to the *Mental Health Act* and access to legal counsel.

E. Education Services

Below is a list of some presentations made by the Mental Health Patient Advocate to inform and educate different organizations with an interest and mandate to provide support to people with mental illnesses. For many of these organizations, more than one presentation was made.

Presentations made to:

- Athabasca Mental Health Clinic
- Alberta Health Facilities Review Committee
- Alberta Law Line
- Canadian Mental Health Association
- Alberta Health Services - Patient Relations
- Alberta Health Services - Alberta Hospital Edmonton
- Alberta Health Services - Royal Alexandra Hospital
- Alberta Health Services - Red Deer Regional Hospital
- Alberta Health Services - Centennial Centre for Mental Health and Brain Injury
- Edmonton Community Legal Centre
- Alberta Patient Representative Network

Forums attended:

- Edmonton Community Forum
- Red Deer Community Forum

Collaboration with:

- Mental Health Amendment Act & Community Treatment Order Steering Committee
- Grant MacEwan College Psychiatric Nursing Committee
- Alberta Patient Concerns Resolution Network
- Assistant Deputy Minister (Public Health)/Directors Committee for Alberta Health & Wellness

Giving Voice: Advocacy and Mental Health

In November 2009 the MHPA initiated and co-hosted a one-day forum *Giving Voice: Advocacy and Mental Health* with the Health Law Institute and the Faculty of Law, University of Alberta. The forum highlighted changes to Alberta's mental health legislation, patient rights and other initiatives in the justice system, courts, Public Guardian's office, Legal Aid Alberta, and Alberta Health Services.

You have a calming voice
that helped me immensely.

PATIENT

Trends and Emerging Issues

The Office recognizes the cooperation and support it received from Alberta Health Services and staff. Their support facilitates the work of the Mental Health Patient Advocate on behalf of all people who come under the Advocate's jurisdiction pursuant to the *Mental Health Act*.

The Mental Health Patient Advocate is uniquely positioned to observe and learn about issues and trends in mental health. We hear from the users as well as service providers and health policy makers. Below are some of the issues and emerging trends we have noted this year.

Patient Rights – Alberta stands as a leader in patient rights. Legislation addresses the detention and provision of assessment and treatment for psychiatric patients with significant and chronic mental disorders. This includes patient rights and mechanisms for appeal and concern resolution.

The province understands that failure to comply with mental health legislation presents potential patient and public safety, quality of care, and risk management issues. Ensuring the rights of patients is fundamental to the recovery approach in mental health and one embraced by Alberta Health Services. Results from this year's Mental Health Patient Advocate evaluation showed information and services provided to patients by the Advocate's Office empowers them to become actively involved, engaged in their recovery, and better understand the province's mental health system.

An emerging trend this year has been an increasing number of psychiatric patients with complex health care needs placed on medical, surgical and geriatric hospital units. While treatment teams on these "off service" units have some knowledge about the requirements and implications of the *Mental Health Act* we have seen gaps in knowledge. As a result, patient rights have been affected.

For example, failure to:

- Provide involuntarily detained patients with documentation about their certification
- Ensure timely renewal of certificates
- Ensure access to legal counsel
- Support the patients in completing applications or appearing at Review Panels
- Provide information about access to the Patient Advocate

When the Advocate's Office becomes aware of real or potential issues, it intervenes to remedy the concern and underscore the need for future compliance.

Future Focus: This past year Alberta Health Services and the MHPAO have accomplished a great deal to provide information and exchange knowledge with service providers about the amended *Mental Health Act* and the rights of patients under the Act.

Staff development is iterative. Staff turnover requires nurses and doctors new to Alberta or in the early stages of their careers, and/or those still becoming familiar with the recent amendments to legislation, to need ongoing information that ensures their practice complies with legislation. For "off-service" health care teams, those who provide care to people with some of the most challenging health care, behavioural and risk management issues, the need is particularly critical.

Recommendation: "Off-service" health care teams require specific clinical education and advice from colleagues with experience in managing challenging psychiatric cases to share "what works". Access to an ethics review process with expertise in psychiatry and mental health legislation would also be of benefit.

Expanding Patient Rights and Mental Health Advocacy –

A small proportion of individuals with psychiatric problems come under the *Mental Health Act* with their rights enshrined in legislation. The majority of Albertans who experience mental illness and seek or/and receive appropriate care do so outside of the *Mental Health Act*. Any advocates and champions they may have are usually family members, friends, family doctors or community agencies. The collective expertise and support of this valuable community of informal advocates often goes unnoticed.

Future Focus: There is a unique opportunity for stakeholders and the Mental Health Patient Advocate to provide input into the development of Alberta's proposed patient charter.

Legal Counsel – Patients receiving care under the *Mental Health Act* have the right to appeal their detention, treatment and Community Treatment Order. Appeals are heard by the Review Panel and the Court of Queen's Bench. Patients also have the right to be represented by legal counsel at these hearings.

In the past, Legal Aid Alberta provided counsel to all patients appearing before the Review Panel. With the expansion of rights to more patients and the funding challenges encountered by Legal Aid Alberta, the MHPAO successfully advocated for counsel to continue to be provided at no cost by Legal Aid Alberta to all patients/clients appearing before the Review Panel.

A fundamental legal principle is that persons appearing before a tribunal must have access to information so that they "know the case that they have to meet" and are able to prepare for the hearing. This principle is especially important when personal liberty is at stake.

In keeping with this principle, it is critical that legal counsel has timely access to patient files in order to be prepared for the Review Panel hearings. Legal Aid Alberta was encountering challenges in accessing this information at

no cost to the patient and without certain information being vetted. The Advocate was contacted to serve as a conduit among the parties in order to address this patient rights concern.

Future Focus: Alberta Health Services, Alberta Health and Wellness, and the MHPAO have done a significant review of this issue and involved their *Health Information Act* experts and legal counsel. It has been agreed that the patient file will be provided to the patient's counsel without costs for processing the records. Work continues on ensuring access to all relevant information.

Advancing a Provincial Mental Health System – In last year's report, the MHPAO expressed hope that the result of one health region for the province would be a renewed commitment to patient/client centered care and new relationships among once independent health delivery services.

Advocates in the MHPAO routinely document differences in practices and protocols from facility to facility and zone to zone. Some of these differences impact patient care and patient rights. For example, differences occurred in:

- ✖ The processing, approval and management of Community Treatment Orders
- ✖ Use of restraint and seclusion
- ✖ Access to interpretive services
- ✖ Management of psychiatric patients with complex needs who are located on non-psychiatric "off service" hospital units
- ✖ Promotion and protection of patient rights in care planning
- ✖ Access to ethics review processes as a resource for treatment teams in considering complex patient care issues.

While many examples of successful collaboration between the MHPAO, Alberta Health Services and Alberta Health and Wellness have occurred, the expectation was one health region would standardize health care approaches

across all facilities and zones and facilitate the exchange of learning. This has yet to be fully realized.

Future Focus: The Ministry of Health and Wellness and Alberta Health Services are moving towards an integrated provincial system for addiction and mental health. There continues to be broad support from the community of advocates for an overarching framework that reflects Government priorities and stakeholder needs, and builds on the 2004 Provincial Mental Health Plan.

Recommendation: Provincial mental health strategies and approaches should be revisited and refocused to guide service delivery and build the proper community supports so critical to patients in recovery. Research, evaluation and knowledge exchange processes would inform and support these necessary changes.

Reaching Out – Recent amendments to the *Mental Health Act* and Patient Advocate Regulation:

- Significantly broadened the criteria for certification (involuntary detention)
- Enshrined additional rights for Albertans who had limited rights under one certificate
- Established Community Treatment Orders

The number of patients who now potentially come within the jurisdiction of the Mental Health Patient Advocate cannot be assessed at this stage, given that the legislation has only recently been enacted.

We do know that there were nine Community Treatment Orders issued from January 2010 when the CTO came into effect and the end of the fiscal year with that number expected to grow to perhaps 50 clients in the first year.

Results from the MHPAO evaluation revealed community stakeholders in southern Alberta appreciated the outreach efforts of the Office, but their connection with the Edmonton-based office could be stronger. They requested more visits and face-to-face contact to foster feelings of connection and to further raise the profile of patient rights.

The MHPAO will monitor the implementation of the amendments from a “patient rights perspective” in order to provide ongoing input into the implementation and evaluation.

Future Focus: This year the MHPAO hired another Patient Rights Advocate to increase access to services. Advocates handled some 7602 contacts with clients, met face to face with 348 patients in hospitals across the province, visited many community stakeholders, and initiated a mail out to thousands of stakeholders. The goal was to ensure people are aware of the MHPAO's services and presence in the province.

The expectation for greater outreach and face to face contact is seen as an endorsement of the efforts and unique role of the Mental Health Patient Advocate in the mental health system.

Please be assured that I appreciate being provided with this information about patient rights and how to contact the Patient Advocate.

GOVERNMENT OFFICIAL



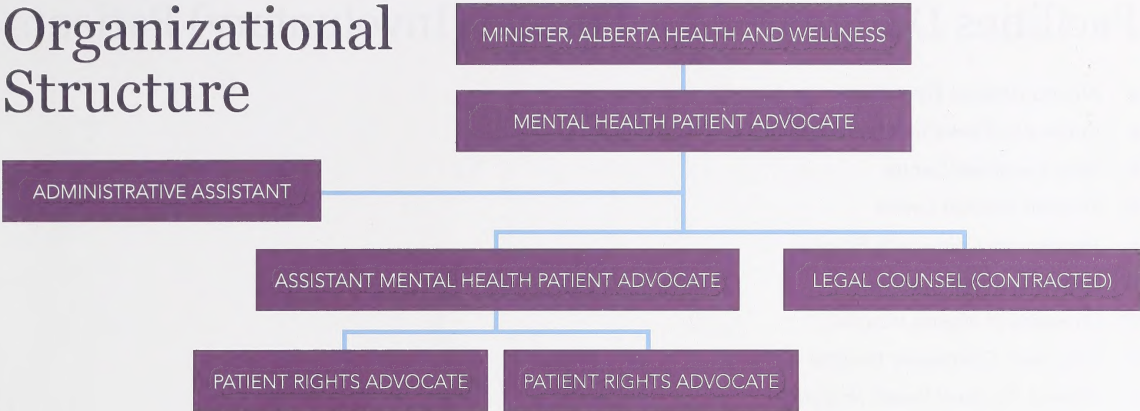
Thank you so much. You've
given me peace of mind.

TELEPHONE CALLER TO THE MHPAO



LEFT TO RIGHT: RONDA GAUTHIER, ADMINISTRATIVE ASSISTANT; CAROL ROBERTSON BAKER, ASSISTANT MENTAL HEALTH PATIENT ADVOCATE; FAY ORR, MENTAL HEALTH PATIENT ADVOCATE, BEVERLY SLUSARCHUK, PATIENT RIGHTS ADVOCATE AND RYAN BIELBY, PATIENT RIGHTS ADVOCATE.

Organizational Structure



2009/2010 Financial Summary

FISCAL YEAR	BUDGET	ACTUAL	ACTUAL SURPLUS (DEFICIT)
2003/04	348,000	155,003	192,997
2004/05	384,168	298,247	85,921*
2005/06	396,245	365,195	31,050*
2006/07	407,108	393,493	13,615*
2007/08	428,303	514,272	(85,969)**
2008/09	592,675	668,058	(75,383)***
2009/2010	1,226,000	644,822	581,178****

- * Surplus was reserved for future needs of the Alberta Mental Patient Advocate Office and was entirely consumed by March 31, 2008.
- ** Deficit was primarily attributable to an increase in staffing and the use of professional services related to the *Mental Health Amendment Act*.
- *** Deficit was primarily attributable to staffing and the use of professional services, plus the accelerated amortization of website and software license fees with the transfer of responsibility for the Mental Health Patient Advocate Office from the Alberta Health Services/Alberta Mental Health Board to Alberta Health and Wellness.
- **** Unexpended funds are due to planned but not required “one time” activities related to the implementation of the amended *Mental Health Act*.

Facilities Designated for Formal (Involuntary) Patients

- Alberta Hospital Edmonton
- Centennial Centre for Mental Health and Brain Injury
- Peter Lougheed Centre
- Foothills Medical Centre
- Misericordia Community Hospital
- Royal Alexandra Hospital
- University of Alberta Hospital
- Grey Nuns Community Hospital
- Chinook Regional Health Hospital
- Medicine Hat Regional Hospital
- Northern Lights Regional Health Centre
- Queen Elizabeth II Hospital
- Rockyview General Hospital
- Claresholm Centre for Mental Health and Addictions
- Red Deer Regional Hospital Centre
- Southern Alberta Forensic Psychiatry Centre

Contact Information

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We are available to assist you during regular office hours,
8:15 a.m. to 4:30 p.m. (closed from 12:00 p.m. to 1:00 p.m.)
Monday through Friday. If you telephone after hours, a
confidential voicemail is available to take your message.

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